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MISSISSIPPI RIVER CRITICAL AREA TASK FORCE REPORT

A Summary for Public Discussion May 23, 2006

Saint Paul's Mississippi River Critical Area Zoning Overlay District

The Mississippi River Critical Area, which runs 72 miles from Ramsey to Hastings, was established in 1976 pursuant to state law. The Critical Area has environmental and scenic standards that operate through local zoning. Zoning codes up and down the river must meet, at minimum, the standards of the state's Critical Area laws and the governor's Executive Order that designated the area along the Mississippi River.

Under the state's Critical Area rules, Saint Paul first adopted a Comprehensive Plan chapter for the Mississippi River Corridor in 1981, followed in 1982 by a new chapter of the Zoning Code. It has *overlay zones* containing development requirements that go beyond the normal zoning regulations that apply citywide. The normal regulations, referred to as the *underlying zoning*, continue to apply in the Critical Area, as well. Development is regulated by both underlying and overlay zoning. In cases where the two disagree, the stricter standard applies.

Saint Paul Mississippi River Critical Area Task Force

A new, updated Mississippi River Corridor Plan was adopted by the City in 2002. It embraced the City's new vision for the riverfront and incorporated changes required by the DNR. In 2004, the Saint Paul City Council created a task force to make recommendations to update the River Corridor Overlay Zoning regulations as proposed in the 2002 plan. The task force has completed its draft of an updated River Corridor chapter of the Zoning Code. This Summary presents the major recommendations of the task force for public review before the recommendations are put in final form and submitted to the City Council.

Purpose of the Critical Area Regulations

The purpose of the Critical Area regulations is to protect, preserve and enhance the unique and valuable resources of the River Corridor. These resources are natural, ecological, and biological;

they are also economic, historical, cultural, and scenic. The river in Saint Paul is both a working river and a recreational destination. The Critical Area in Saint Paul includes both urban development and natural amenities of regional and national significance. The Critical Area regulations attempt to balance these needs and opportunities for land in the River Corridor, and to improve the synergy among them.

Key Task Force Recommendations for Critical Area Zoning

1. Separate Critical Area and Floodplain Zoning Articles. The 1982 River Corridor regulations established four overlay districts. But only two of them related specifically to the state's environmental and scenic guidelines for the Critical Area. The other two, in the river bottoms, related to flood protection. The task force recommends separating the two types of regulations: the floodway and flood fringe will have its own set of standards, which are almost entirely dictated by federal and state agencies, and the Critical Area overlay zones will span the entire River Corridor. Thus, both Critical Area and floodplain overlay regulations will apply to the bottomlands that previously were subject only to floodplain regulations.

(Updates to the floodplain regulations are not part of this report. They are being drafted by City and DNR staff as a separate project.)

- 2. Use all four Critical Area zoning districts provided for in state rules. The state spells out four zoning districts throughout the Critical Area--Rural Open Space, Urban Open Space, Urban Developed, and Urban Diversified. In 1982 Saint Paul used only two of the four districts similar to the state's original classification: Urban Open Space was used for parks and established low-density neighborhoods; Urban Diversified was used for the downtown and industrial areas.
 - The task force recommends making use of all four districts, as follows:

Rural Open Space (CA1): Pig's Eye Lake area (except sewage treatment plant and privately owned Red Rock properties, which are in Urban Diversified)
Urban Open Space (CA2): Large river parks and Highwood neighborhood
Urban Developed (CA3): Established city neighborhoods
Urban Diversified (CA4): Downtown, high density redevelopment, and industrial areas.

- The task force recommends prohibiting mining and motor vehicle salvage in all four overlay districts. The task force also recommends prohibiting all industrial uses in three of the four zones, allowing them only in Urban Diversified (CA4).
- The task force recommends zoning land that is upstream from Otto Avenue and landward of Shepard Road and Mississippi River Blvd. to the Urban Developed (CA3) district, and prohibiting industrial uses. This recommendation would change

the Ford Plant, other plants in the West End, and the Crosby Lake Business Park from conforming land uses to nonconforming uses.

3. Increase protection of riverbanks and wetlands.

- Except downtown, new commercial and industrial development must be riverrelated in order to locate within 300 feet of the river. Existing businesses along the river can expand, subject to natural resource protection.
- A natural shoreline buffer must be restored or created within 100 feet of the river to protect water quality and the riparian ecosystem.
- Structures must be set back from 100 feet from the river (with exceptions for public infrastructure, and barge and boating facilities).

4. Increase protection of bluffs and steep slopes.

- On river bluffs, no structures are permitted (with exceptions for public infrastructure and for barge and boating facilities on riverbanks). Bluffs are defined as slopes of 18 percent or steeper with a height of 16 feet or higher.
- On top of bluffs, structures must be set back at least 40 feet. The 40-foot setback is unchanged from the current regulations, but it will apply to more properties because all of the bluffs, as currently defined, exceed 25 feet high. At the toe of bluffs, structures must be at least 20 feet away from the bluff. This is a new regulation.
- On very steep slopes, no structures are permitted (with exceptions for public infrastructure and for barge and boating facilities on riverbanks). Very steep slopes are defined as slopes of 18 percent or steeper and a height of 9 to 16 feet.
- On slopes of between 12 percent and 18 percent, only single-family houses can be built. They must go through the site plan review process and be designed to minimize erosion problems and preserve native vegetation.
- In the Highwood neighborhood (the CA2 district), structures near the crest of very steep slopes must have a setback that is based on the combined heights of the slope and structure.
- These changes in steep slope regulations would cause many houses to become nonconforming with regard to height and setback dimensions. Such houses can be enlarged in ways that do not increase their dimensional nonconformity. If destroyed, such houses can be rebuilt within one year.

(Note: Percentage of slope equals height divided by horizontal run: 12% equals a six foot rise over a 50 foot run. 18 percent equals a nine foot rise over a 50 foot run.)

5. Add to the regulations on grading, filling, and dredging.

- Site alterations for development must be the minimum necessary, and must implement erosion control measures and revegetation. Restoration slopes cannot exceed 4:1 (a 25 percent slope).
- Dredging for river navigation is regulated by federal and state agencies, but dredging for any purpose other than river navigation will also be regulated by the City.

6. Strengthen City regulations regarding the management of vegetation.

- Vegetation must be managed to enhance the scenic beauty and natural qualities of the river, to control erosion, and to restore plant and wildlife habitats.
- Existing native plants as well as non-native plants that are not invasive must be maintained to the greatest extent possible; their disturbance must be minimized. New development must be placed on the least vegetated portion of the site.
- Building, grading and fill permit applications to the City must include an inventory of the trees, shrubs, and any habitats of endangered or threatened species done for the proposed construction area. The inventory must be done by a registered professional (plant ecologist, forester, landscape architect, or surveyor).
- Vegetation removed due to development must be replaced with native vegetation elsewhere on the site. If on-site replacement is not possible, replacement planting can be done elsewhere in the Critical Area, or a fee can be paid into fund maintained by the Parks Department for vegetation replacement. The amount of the fee would be based on the current value of the plants removed, plus ten percent for administration.
- Clear cutting of trees and shrubs is prohibited, except the minimum amount necessary for approved development.
- Removal of non-native, invasive species, e.g., buckthorn, and replacement with native species is encouraged.
- Protection of the scenic quality of tree covered bluffs is very important. On very steep slopes and within 40 feet of blufflines, removal of the shrub and canopy layer is prohibited. Houses and other development must have buffer plantings. Property owners can prune as necessary for the maintenance and health of trees or to remove nuisances or hazardous conditions, but they must maintain buffer plantings and canopy cover.

7. Increase protection of water quality.

- Water quality should meet or exceed state standards. No use of property will be allowed that is likely to cause water pollution.
- Septic systems will not be permitted where public sewers are available. Where a septic system is installed, it must be at least 75 feet from the river and 40 feet from a bluffline.
- Development must be designed to minimize both the rate and volume of stormwater runoff, using the approved best management practices from state manuals.
- Stormwater runoff must be directed across vegetated areas before going to a storm sewer
- Stormwater ponds are prohibited on bluffs and steep slopes or within 40 feet of a bluffline.

8. Establish more building height limits to protect views.

- Consistent with City plans and an urban setting, new development should reflect the River Corridor's topography and natural setting by preserving public and panoramic views of and from the river and bluffs.
- Buildings heights in the Rural and Urban Open Space Districts (CA1 and CA2) will be limited to 30 feet.
- Building heights in the Urban Developed and Urban Diversified Districts (CA3 and CA4) will be limited to: 36 feet high within 200 feet of the river; 48 feet high within 500 feet of the river; 48 feet high within 300 feet riverward from the toe of a bluff; and, on top of a bluff, 36 feet high within 100 feet of the bluff line.
- Elsewhere in the Urban Developed District (CA3), 48 feet maximum height.
- Elsewhere in the Urban Diversified District (CA4), 60 feet maximum height.
- There are special height districts for the downtown side of the river from the High Bridge to the Lafayette Bridge. Buildings cannot block views from Kellogg Mall Park (Ramsey County Government Center East to St. Peter Street). Below Kellogg Mall Park (Ramsey County Government Center East to Wabasha Street), buildings heights are limited to 15 feet. The area below the Science Museum and the Upper Landing area are limited to 60 feet in height.
- There are special height limits for the West Side Flats between Robert and Wabasha Streets that are consistent with the City's adopted West Side Flats Master Plan. On the various blocks it allows buildings of 36, 48, 60, and 72 feet high.
- When redevelopment makes it possible to open up views of the river valley down streets that are currently blocked from the river, e.g., Wacouta, Wall, and Broadway Streets, the redevelopment must be designed, to the extent possible, to open up the view for public enjoyment.
- There are specific exceptions to the height limits for bridges, transmission lines, historic landmarks, river-dependent industrial facilities, and publicly owned landmarks.

9. Require the dedication of land for parks, open space, and river access.

• Within the Critical Area, the dedication of parkland or a fee in lieu of dedication will be required for subdivision of property, except for minor lot splits. Twelve percent of the land must be dedicated to the City; however payments in lieu of land are capped at \$3,000 per residential unit. The payments can be used only for park acquisition and capital improvements.

10. Strengthen permit requirements for approval of site plans, conditional uses, and variances.

Site plan application and approval criteria are brought into the Critical Area section of
the Zoning Code. Applications will require more detail on soil types, topography and
vegetation. Site designs must assess and minimize adverse effects while maximizing
beneficial effects on the Critical Area. The City can impose requirements for site
plans to meet Critical Area objectives, and this is also the case for conditional use
permits and variance.

Steps for Adoption of the New Critical Area Overlay Zoning

The task force was established by the City Council and will make its report to the City Council in June. Because the recommendations relate to the Zoning Code, the City Council will refer them to the Planning Commission. The Planning Commission will study how the recommendations relate to the City's Comprehensive Plan, will hold a public hearing, and will then submit its recommendation to the City Council. The City Council will also hold a public hearing before acting on the amendments to the Zoning Code.

The amendments approved by the City will be sent to the Metropolitan Council for its review and submitted to the DNR for review and approval. The DNR, after receiving the recommendation of the Metropolitan Council, can approve the zoning amendments or return them to the City for modification. Final amendments will not become effective until both the City and the DNR have approved them.

Public Review and Input Opportunities

During April and May, Critical Area Task Force members are going to district council meetings to present these recommendations. On Tuesday, May 30, the task force is holding a public open house and forum on Harriet Island. The task force is also meeting with affected public agencies and with major property owners.

Written public comments can be submitted to the Mississippi River Critical Area Task Force, 25 West Fourth Street, Suite 1400, Saint Paul, MN 55102, or submitted by email to larry.soderholm@ci.stpaul.mn.us